

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Marcus Hayes,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:12cv740
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Franklin Medical Center Zone B,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Stephanie K. Bowman filed on July 31, 2013 (Doc. 12), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired August 19, 2013, hereby ADOPTS said Report and Recommendation.

Accordingly, respondent's motion to dismiss (Doc. 7) is **GRANTED** and petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 3) is **DISMISSED** with prejudice.

A certificate of appealability will not issue with respect to the claims for relief alleged in the petition, which this Court has concluded are barred from review on a procedural ground, since under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), "jurists of reason" will not find it debatable whether the Court is correct in its procedural ruling.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § Sec. 1915(a)(3) that an appeal of any Order adopting

the Report and Recommendation will not be taken in “good faith,” therefore **DENYING** petitioner leave to appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6<sup>th</sup> Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott  
Chief Judge Susan J. Dlott  
United States District Court